

House File 2390

AN ACT  
RELATING TO OBSCENE MATERIAL, COMMERCIAL SEXUAL ACTIVITY,  
AND HUMAN TRAFFICKING, AND PROVIDING PENALTIES AND MAKING  
PENALTIES APPLICABLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 692A.102, subsection 1, paragraph c,  
Code Supplement 2011, is amended by adding the following new  
subparagraph:

NEW SUBPARAGRAPH. (032) Solicitation of commercial sexual  
activity in violation of section 710A.2A.

Sec. 2. Section 710A.1, subsection 4, Code 2011, is amended to read as follows:

4. a. "*Human trafficking*" means participating in a venture to recruit, harbor, transport, supply provisions, or obtain a person for any of the following purposes:

~~a.~~ (1) Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.

~~b.~~ (2) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

b. "*Human trafficking*" also means knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking.

Sec. 3. Section 710A.2, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person's ignorance of the age of the victim or a belief that the victim was older is no defense to a violation of this section.

Sec. 4. NEW SECTION. 710A.2A **Solicitation of commercial sexual activity.**

A person shall not entice, coerce, or recruit, or attempt to entice, coerce, or recruit either a person under the age of eighteen or a law enforcement officer or agent representing oneself to be under the age of eighteen, to engage in a commercial sexual activity. A person who violates this section commits a class "D" felony.

Sec. 5. Section 728.1, subsection 7, paragraphs e through g, Code 2011, are amended to read as follows:

e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

Sec. 6. Section 728.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 11. "*Visual depiction*" means but is not limited to any picture, slide, photograph, digital or

electronic image, negative image, undeveloped film, motion picture, videotape, digital or electronic recording, live transmission, or other pictorial or three-dimensional representation.

Sec. 7. Section 728.12, subsection 1, Code 2011, is amended to read as follows:

1. It shall be unlawful to employ, use, persuade, induce, entice, coerce, solicit, knowingly permit, or otherwise cause or attempt to cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act. A person must know, or have reason to know, or intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a ~~negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system~~ visual depiction. A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

Sec. 8. Section 728.12, subsection 3, unnumbered paragraph 1, Code 2011, is amended to read as follows:

It shall be unlawful to knowingly purchase or possess a ~~negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or an electronic, magnetic, or optical storage system, or any other type of storage system~~ which depicts visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A visual depiction containing pictorial representations of different minors shall be prosecuted and punished as separate offenses for each pictorial representation of a different minor in the visual depiction. However, violations of this subsection involving multiple visual depictions of the same minor shall be prosecuted and punished as one offense. A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

Sec. 9. Section 728.14, Code 2011, is amended to read as follows:

**728.14 Commercial film and photographic print processor reports of depictions of minors engaged in prohibited sexual acts.**

1. A commercial film and photographic print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a ~~film, photograph, video tape, negative, or slide which depicts~~ visual depiction of a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in a prohibited sexual act or in the simulation of a prohibited sexual act, shall report the visual depiction to the county attorney immediately or as soon as possible as required in this section. The processor shall not report to the county attorney visual depictions involving mere nudity of the minor, but shall report visual depictions involving a prohibited sexual act. This section shall not be construed to require a processor to review all ~~films, photographs, video tapes, negatives, or slides~~ visual depictions delivered to the processor within the processor's professional capacity or employment.

2. For purposes of this section, "*prohibited sexual act*" means any of the following:

- a. A sex act as defined in section 702.17.
- b. An act of bestiality involving a minor.
- c. Fondling or touching the pubes or genitals of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
- d. Fondling or touching the pubes or genitals of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
- e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
- f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
- g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

~~2.~~ 3. A person who violates this section is guilty of a simple misdemeanor.

Sec. 10. Section 915.87, subsection 2, paragraph b, Code 2011, is amended to read as follows:

- b. The victim assisting, attempting, or committing a

criminal act. This paragraph shall not apply to a victim under the age of eighteen involved in commercial sexual activity as defined in section 710A.1.

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KRAIG PAULSEN  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2390, Eighty-fourth General Assembly.

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W. CHARLES SMITHSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2012

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TERRY E. BRANSTAD  
Governor